

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON DIVISION

Aude Marie-Laure Torrent,	)	
	)	
	)	
Petitioner,	)	Case No. 8:18-cv-2862-TMC
	)	
	)	
vs.	)	
	)	<b>ORDER</b>
	)	
Guillermo Barusch Fajardo Arroyo,	)	
	)	
Respondent.	)	
_____	)	

Petitioner brought this action under the International Child Abduction Remedies Act (“ICARA”), *see* 22 U.S.C. §§ 9001-11, which implements the Hague Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980, T.I.A.S. No. 11,670, 1343 U.N.T.S. 89 (“Hague Convention”). Petitioner filed an Emergency Verified Petition for Return of Children to Ireland and Immediate Issuance of Show Cause Order (ECF No. 1), along with a Motion for Expedited Consideration of the Emergency Verified Petition and for issuance of a temporary restraining order, a preliminary injunction and an expedited scheduling order. (ECF No. 4). Petitioner claims that Respondent wrongfully removed their two minor children from their habitual residence of Ireland and seeks the return of the children to Ireland for any appropriate custody proceedings under Irish law. (ECF No. 1 at

12). Petitioner further seeks an order granting her “temporary custody” of the minor children pending the final hearing. *Id.* at 13.

On November 2, 2018, the court held a preliminary hearing during which Petitioner moved for an order granting her access to the children pending the final hearing. (ECF No. 25). The court encouraged the parties to reach a mutual agreement as to Petitioner’s access to the minor children, but the parties were unable to do so. The court invited the parties to submit post-hearing briefs as to whether the court could make a determination regarding Petitioner’s access rights in light of *Cantor v. Cohen*, 442 F.3d 196 (4th Cir. 2006), and encouraged the parties “to continue their efforts to reach an agreement on this issue pending further order of the court.” (ECF No. 25).

Following the hearing, Petitioner filed a Memorandum of Law in Support of an Access Order. (ECF No. 29). Petitioner seeks an order from this court granting her access to the minor children pending the final merits hearing in this matter. The court must reject Petitioner’s arguments and deny her request for an order enforcing interim access rights in light of *Cantor*. *See Cantor*, 442 F.3d at 197 (concluding that federal courts lack “jurisdiction to hear *access claims* under ICARA” (emphasis added)); *id.* at 206 (explaining that our decision . . . does not prevent the Appellant from filing a *claim for visitation* in state court under the state’s visitation law” or “a petition with the Central Authorities pursuant to the Convention in order to address

her access claims” (emphasis added)). The court has very carefully considered Petitioner’s arguments suggesting that *Cantor* does not cover the instant case but cannot agree. This court is obliged to apply *Cantor* unless and until the Fourth Circuit Court of Appeals abrogates it or applies a gloss to it that would narrow this court’s reading of that decision.

The court notes that, according to the representations of the parties, there has been post-hearing contact and communication between Petitioner and the minor children. The parties are encouraged to continue cooperating to allow the children to have contact with both of their parents between now and the final hearing on the merits.

The court further admonishes the parties that the travel restrictions and other restraints previously ordered by the court remain in full force and effect.

This order addresses only Petitioner’s request for an order granting interim access to, or temporary custody of, the minor children pending the final hearing. The court makes no determination as to the merits of Petitioner’s claim for return of the children to Ireland.

Accordingly, Petitioner’s request for an Access Order (ECF No. 29) and/or for “temporary custody” (ECF No.1 at 13) pending the final hearing on the merits is **DENIED.**

**IT IS SO ORDERED.**

November 15, 2018  
Anderson, South Carolina

s/Timothy M. Cain  
United States District Judge